

CONNECTICUT SITING COUNCIL
DOCKET NO. 336

IN THE MATTER OF:

AN APPLICATION OF CELLCO PARTNERSHIP d/b/a/ VERIZON WIRELESS
FOR A CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AND
PUBLIC NEED FOR THE CONSTRUCTION, MAINTENANCE AND
OPERATION OF A WIRELESS TELECOMMUNICATIONS FACILITY AT 811
BLUE HILLS AVENUE, BLOOMFIELD, CONNECTICUT

APPLICANT'S POST-HEARING BRIEF

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POST-HEARING BRIEF

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I. INTRODUCTION

On April 25, 2007, Cellco Partnership d/b/a Verizon Wireless ("Cellco" or "Applicant") filed an application (the "Application") with the Connecticut Siting Council ("Council") for a certificate of environmental compatibility and public need ("Certificate"), pursuant to Sections 16-50g et seq. of the Connecticut General Statutes ("Conn. Gen. Stat."), for the construction, maintenance and operation of a wireless telecommunications facility known as the "Bloomfield Blue Hills Facility" (the "Facility"). The Facility is proposed to be located on an 8.8 acre parcel at 811 Blue Hills Avenue in the Town of Bloomfield ("Bloomfield"). (Cellco Exhibit 1 ("Cellco 1") pp. 1-2). The Facility would provide Cellco customers with both cellular and personal communication system ("PCS") service in the southerly portion of the Town of Bloomfield and the northerly portion of the City of Hartford where service from existing wireless facilities is lacking. The Facility would allow Cellco to fill significant PCS coverage gaps along Routes 178 and 218 and provide coverage along local roadways in the area as wells as provide additional call handling capacity to its cellular network in the same area. The Facility also provides certain coverage benefits at cellular frequencies to the southeast of the proposed tower location. (Cellco 1, pp. 1-2, Tab 6; Transcript ("Tr.") p. 18). At PCS frequencies the Facility would provide coverage to a 2.1 mile portion of Route 189; a 1.6 mile portion of Route 218; and an overall area of 7.3 square miles. At cellular frequencies the Facility would also provide coverage to a 2.4 mile portion of Route 189; 1.7 mile portion of Route 218; and an overall area of 10.3 square miles. (Cellco 1, p. 2; Cellco 5, Resp. No. 25). The Facility will allow Cellco to continue to provide high-quality, uninterrupted wireless telecommunications coverage within its service area consistent with its Federal

Communications Commission (“FCC”) license and the demands of its wireless telecommunications users. (Cellco 1, pp. 1-2, 7; Tab 6).

Cellco has presented, for the Council’s consideration, a site that would satisfy its coverage objective in the Bloomfield area. To date, no other wireless carriers have committed to share the Facility. (Cellco 5, Resp. No. 16).

The Council conducted a public hearing on the Application on July 24, 2007. (Tr. p. 3). Prior to the afternoon session of the hearing, the Council and its staff visited the proposed cell site. At the Council’s request, Cellco caused a balloon, with a diameter of approximately 4 feet, to be flown during the site visit at the proposed cell site location starting at 8 a.m. (Cellco 1, p. 14; Tr. pp. 14-15).

This post-hearing brief is filed on behalf of the Applicant pursuant to Section 16-50j-31 of the Regulations of Connecticut State Agencies (“R.C.S.A.”) and the Council’s directives. (Tr. (evening) pp. 11-12). This brief evaluates the Application in light of the review criteria set forth in Section 16-50p of the Connecticut General Statutes.

II. FACTUAL BACKGROUND

A. Pre-Application History

Cellco conducted a search for an appropriate location for a facility to fill existing gaps in coverage gaps along State Routes 178 and 218, as well as local roadways in the area between its existing Bloomfield 3, University of Hartford (“U of H”), Hartford NW, Hartford North and Windsor South facilities. (Cellco 1, p. 7; Tabs 6 and 8; Cellco 5, Resp. No. 3). None of these existing facilities can resolve the existing coverage problems that Cellco is experiencing along Routes 218 and 178 and in the surrounding areas. (Cellco 1, pp. 2-3, 7, 10, Tab 7).

In an effort to avoid the unnecessary proliferation of towers, Cellco first explored the shared use of two existing towers and one roof-top location in the area. (Cellco 1, p. 10, Tab 8). Each of these alternatives was rejected. (Cellco 1, Tab 8). The first of these existing structures explored was the 125-foot tower at the Blue Hills Fire Department (“BHFD”), 1021 Blue Hills Avenue, approximately 0.65 miles north of the Facility location. At the time the Docket No. 336 Application was filed there was no space available on the BHFD tower. (Cellco 1, Tab 8, p. 3; Tr. p. 31). Recently, AT&T removed its antennas from the 108-foot level on the BHFD tower. Cellco could not, however, satisfy its coverage and capacity objectives at the 108-foot level on the BHFD tower, losing approximately one mile of coverage along Route 178 to the south, toward the City of Hartford/Town of Bloomfield boundary. (Tr. pp. 31-33). Even with its antennas at 220 feet AGL (requiring an approximately 100-foot extension of the BHFD tower), Cellco could not fill this approximately one mile coverage gap along Route 178. (Tr. (evening) p. 8).

Cellco also explored the use of the existing WDRC AM radio tower located approximately 0.5 miles north of the Facility. The use of an AM radio tower, while possible, is not preferred for several reasons. Significant steps need to be taken to “detune” an AM tower to avoid a distortion of the AM radio signal. This can be cost prohibitive and a time consuming process. Since the entire AM tower is the transmitting element of the AM signal, the radio station would also have to agree to suspend its broadcasting during installation and maintenance of the wireless antennas. (Cellco 5, Resp. Nos. 30 and 31).

Lastly, Cellco explored the use of the roof at St. Francis Hospital at 500 Blue Hills Avenue. The property owner was not interested in leasing space at this location for a cell site. (Cellco 1, Tab 8; Tr. p. 36).

If a new tower must be constructed, Cellco attempts to identify sites where the construction of a tower would not be inconsistent with area land uses and/or where the visual impact of the site is reduced to the greatest extent possible. In addition to the 8.8 acre industrial zone site, Cellco explored the use of the Oak Hill school property as a second location where a new tower would need to be developed. This property owner was not interested in leasing land to Cellco for this purpose. (Cellco 1, Tab 8).

To minimize the impact of a new tower in this case, Cellco has selected a site location adjacent to an existing Industrial Park and an alternative tower design, a “flagpole tower”, for consideration by the Council. During the hearing, the Council discussed alternative tower designs, including a monopole with flush-mounted antennas. As discussed more fully below, this alternative tower design would satisfy Cellco’s objectives and would more effectively promote the sharing of the Facility in the future. (Cellco 1, p. 2; Tab 1; Tr. pp. 37, 43-51, 55-56).

B. Local Contacts

On August 22, 2006, Cellco representatives met with Bloomfield Planning Director Tom Hooper, as designee for the Town Manager. During the meeting, Mr. Hooper received copies of technical information summarizing Cellco’s plans for the Facility. Because the Facility is within 2,500 feet of the Bloomfield/Hartford boundary, Cellco representatives also delivered copies of the technical information to Mayor Eddie Perez of the City of Hartford. (Cellco 2).

C. Tower Sharing

Consistent with its practice, Cellco regularly explores opportunities to share its facilities with other wireless service providers. Cellco will design the Bloomfield Blue Hills tower so that it could be shared by other carriers, known and unknown at the time of the Council’s decision.

(Cellco 1, p. 11). Currently, no other wireless carriers or the Town of Bloomfield expressed any interest in sharing the proposed Facility. (Cellco 5, Resp. No. 16).

D. The Bloomfield Blue Hills Proposal

The proposed Facility would be located on an 8.8 acre parcel at 811 Blue Hills Avenue, located in the Town's I-2 Industrial zone district. The owner's warehouse/commercial building is located to the north of the proposed tower site. (Cellco 1, pp. 1-2, Tab 1; Bulk File – Zoning Map). At the site, Cellco would construct a 110-foot tall flagpole tower. Cellco would install a total of six (6) panel-type antennas, (3 PCS antennas at the 105-foot level and 3 cellular antennas at the 95-foot level). The total height of the tower and appurtenances would not exceed 110 feet to the top of the tower structure.¹ Equipment associated with the Cellco antennas would be maintained in a 12' x 30' shelter located near the base of the tower. All site improvements associated with the proposed Facility would be located within a 23' x 75' leased parcel. Access to the site would extend from Edgewood Avenue over a new gravel driveway, a distance of approximately 180 feet to the cell site. Both the tower and leased area have been or will be designed to accommodate additional carriers. (Cellco 1, pp. 1-2, Tab 1).

III. THE APPLICATION SATISFIES THE CRITERIA OF CONN. GEN. STAT. § 16-50p FOR ISSUANCE OF A CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED

Section 16-50p of the Public Utility Environmental Standards Act (the "Act"), Conn. Gen. Stat. §16-50g et seq., sets forth the criteria for Council decisions in Certificate proceedings and states, in pertinent part:

¹ As of the close of the hearing, the Town of Bloomfield had not expressed any interest in sharing this tower. If that changes, however, it is likely that a municipal antenna would extend off the top of the proposed monopole tower. (Tr. pp. 39-40).

In a certification proceeding, the council shall render a decision upon the record either granting or denying the application as filed, or granting it upon such terms, conditions, limitations or modifications of the construction or operation of the facility as the council may deem appropriate . . . The council shall file, with its order, an opinion stating in full its reasons for the decision. The council shall not grant a certificate, either as proposed or as modified by the council, unless it shall find and determine: (1) A public need for the facility and the basis of the need; (2) the nature of the probable environmental impact, including a specification of every significant adverse effect, whether alone or cumulatively with other effects, on, and conflict with the policies of the state concerning the natural environment, ecological balance, public health and safety, scenic, historic and recreational values, forests and parks, air and water purity and fish and wildlife; (3) why the adverse effects or conflicts referred to in subdivision (2) of this subsection are not sufficient reason to deny the application. . . .

Conn. Gen. Stat. § 16-50p(a).

Under Section 16-50p, the Applicant must satisfy two key criteria in order for the Application to be granted and for a Certificate to issue. First, the Applicant must demonstrate that there is a “public need for the facility.” Conn. Gen. Stat. § 16-50p(a)(1). Second, the Applicant must identify “the nature of the probable environmental impact” of the proposed Facility through review of the numerous elements specified in Conn. Gen. Stat. § 16-50p(a)(2), and then demonstrate that these impacts “are not sufficient reason to deny the application.” Conn. Gen. Stat. § 16-50p(a)(3). The evidence in the record for this docket establishes that the above criteria have been satisfied and that the Applicant is entitled to a Certificate.

A. A Public Need Exists for the Bloomfield Blue Hills Facility

The first step in the review of the pending Application addresses the public need for the proposed Facility. As noted in the Application, the FCC in its Report and Order released on May 4, 1981 (FCC Docket No. 79-318) recognized a public need on a national basis for technical improvement, wide area coverage, high quality and a degree of competition in mobile telephone service. (Cellco 1, pp. 5-7). More recently, the Federal Telecommunications Act of 1996 (the

“Telecommunications Act”) emphasized and expanded on these aspects of the FCC’s 1981 decision. (Council – Admin. Notice 7). Among other things, the Telecommunications Act recognized an important nationwide public need for high quality personal wireless telecommunications services of all varieties. Id. The Telecommunications Act also expressly promotes competition and seeks to reduce regulation in all aspects of the telecommunications industry in order to foster lower prices for consumers and to encourage the rapid deployment of new telecommunications technologies. Id. The Council took administrative notice of the Telecommunications Act. (Council Adm. Notice 7).

The record in this docket contains ample, written evidence and testimony that Cellco PCS antennas at the 105-foot level and cellular antennas at the 95-foot level on the proposed tower would allow Cellco to achieve and maintain high quality wireless telecommunications service without interruption from dropped calls and interference. (Cellco 1, p. 7, Tab 6). The record in this docket would support a finding by the Council that Cellco antennas are proposed to be located at the lowest possible height needed to satisfy its coverage objectives between its existing U of H, Hartford North, Hartford NW, Bloomfield 3 and Windsor South facilities. (Cellco 1, p. 7, Tabs 6 and 8; Cellco Resp. No. 3).

B. Nature of Probable Impacts

The second step in the statutory review procedure addresses the probable environmental impacts of the proposed Facility and particularly the following factors:

1. Natural Environment and Ecological Balance

The proposed development of the 811 Blue Hills Avenue site has eliminated, to the extent possible, impacts on the natural environment. At the proposed cell site, Cellco will construct a new 180-foot long gravel driveway on the property for its access way extending from Edgewood

Avenue to the cell site. Construction of the cell site compound will be limited to the 23' x 75' compound area and leased parcel. Construction of the access driveway and site compound can be completed without the removal of any substantial trees (greater than 6-inch diameter at breast height) from the property, or substantial regrading of the Facility compound. (Cellco 1, Tab 1; Cellco 5, Resp. Nos. 11 and 12).

2. Public Health and Safety

Cellco has considered several factors in determining that the nature and extent of potential public health and safety impacts resulting from installation of the proposed Facility would be minimal or nonexistent.

First, the potential for the proposed cell site tower to fall does not pose an unreasonable risk to health and safety. The proposed tower would be designed and built to meet Electronic Industries Association ("ELA") standards. (Cellco 1, Tab 1, p. 6; Cellco 5, Resp. No. 13). The fall radius of the tower would extend onto undeveloped portions of the adjacent industrial park parcels to the northwest. If deemed necessary, the tower design could include an engineer yield point to avoid impacts to adjacent parcels in the unlikely event of the tower facility. Other than the proposed equipment shelter, no other structure is located within 110 feet of the tower. (Cellco 1, p. 3, Tab 1 - Project Plans; Tr. pp. 20-21).

Second, worst-case potential public exposure to radio-frequency ("RF") power density for Cellco operations at the nearest point of uncontrolled access (the base of each tower) would be 17.05% of the FCC standard for the Facility. Power density levels at each site would drop off rapidly as distance from the tower increases. (Cellco 1, pp. 14-15, Tab 1, p. 8).

3. Scenic Values

As noted in the Application, the primary impact of any tower facility is visual. (Cellco 1, pp. 13-14). Cellco's site search methodology, described in the Site Search Summary, is designed in large part to minimize the overall visual impact of such facilities. (Cellco 1, Tab 8). As discussed above, wherever feasible, Cellco attempts to avoid the construction of a new tower by first attempting to identify existing towers or other tall non-tower structures in or near its search area. (Cellco 1, Tab 8). Cellco identified four (4) existing tower and/or communications facilities within four miles of the proposed Facility. Cellco already has antennas at the highest available heights on the existing towers at 785 Park Avenue in Bloomfield (Cellco's Bloomfield 3 Facility); 439-455 Homestead Avenue in Hartford (Cellco's Hartford NW Facility); 305 West Service Road in Hartford (Cellco's Hartford North Facility); and 599 Mattianuck Avenue in Windsor (Cellco's Windsor South Facility). Cellco also utilizes an existing roof-top facility at the U of H to provide service to the southwest portion of the proposed Facility. (Cellco 1, pp. 1-2, Tabs 6 and 8; Cellco 5, Resp. No. 3). There were no existing tall structures in or near the Bloomfield Blue Hills search area properly located or tall enough to satisfy Cellco's objectives. (Cellco 1, p. 10, Tab 8; Cellco 5, Resp. Nos. 30 and 31; Tr. pp. 31-33).

If it determines that a new tower must be constructed, Cellco attempts to identify sites where the construction of a tower would not be inconsistent with area land uses and where the visual impact of the Facility would be reduced to the greatest extent possible. Visual impact of a tower can be further reduced through the proper use of alternative tower structures; so-called "stealth installations." Where appropriate, telecommunications towers camouflaged as, for example, flagpoles, pine trees and church bell towers, can help to reduce visual impacts associated with more traditional telecommunications towers. (Cellco 1, p. 13). Cellco proposed the

construction of a flag pole tower at this site. Cellco determined that a flagpole tower, adjacent to industrial property, residences and a Fire Department sub-station might be more appropriate than a traditional tower with platform or T-arm mounted antennas. (Cellco 1, p. 13, Tab 9).

a. WDRC Concerns. Buckley Broadcasting, operating as WDRC AM intervened in this docket to express its concern that the proposed flagpole tower might interfere with the WDRC signal. (Tr. p. 66). While RF interference is not an issue within the Council's jurisdiction, Cellco, as a FCC license holder must take certain steps to ensure that its Facility will not interfere with the WDRC signal. During the hearing, Cellco explained that to address this issue, it would install a "detuning skirt" on the proposed tower, consisting of three small wires, attached and running parallel to the tower, approximately 18 inches from the structure. (See Revised Plan Sheet SC-2 – Cellco 6). While resolving WDRC's concerns for interference, the installation of the detuning skirt requires Cellco to abandon its plans to install a flag on the proposed tower. (Tr. 12).

b. Alternative Stealth Tower Designs. With the elimination of the flag, as required by the installation of the detuning skirt, Cellco and the Council explored, during the hearing, two alternative streamline tower designs, including a monopole tower with internally-mounted antennas and a monopole tower with flush-mounted (externally-mounted) antennas. (Tr. 43-48). The monopole with internally-mounted antennas, while more streamline in appearance is necessarily larger, in diameter, than a monopole with flush-mounted antennas. (Tr. pp. 47-53). A monopole with flush-mounted antennas, is generally a structure with a smaller diameter and is capable of supporting more tower sharing than its counterpart with internal antennas. (Tr. pp. 50-54). Operationally, either alternative, internally-mounted or flush-mounted antennas, at the height requested in the

Application, would satisfy Cellco's coverage and capacity objectives and would, therefore, be acceptable. (Tr. pp. 54-56).

The closest residence to the tower compound is located approximately 170 feet to the southeast owned by Lucien and Rosaline Altenor at 5 Edgewood Avenue. (Cellco 1, p. 13, Tab 1, p. 3; Cellco 5, Resp. No. 19). The visual impact of the tower from these nearest residences and other surrounding residential areas would be significantly reduced by the design of the flagpole or similar streamline monopole structure. (Cellco 1, p. 13, Tab 9).

As the record indicates, the location of the proposed tower has allowed Cellco to propose structures at the minimum height required to satisfy its needs in the area while eliminating, to the extent possible, visual impact on the surrounding landscape. (Cellco 1, Tabs 1 and 9).

4. Historical Values

As it does with all of its tower applications, prior to filing the Application with the Council, Cellco requested that the State Historic Preservation Office ("SHPO") of the Connecticut Historical Commission (the "Commission") review the proposal. Based on its review of the information submitted by Cellco, the State Historic Preservation Office determined that the development of a telecommunications tower at the site proposed would have "no effect" on Connecticut's cultural heritage. (Cellco 4). Cellco has no reason to believe that there are any other impacts on historical values not addressed by the Commission's review that are sufficient to warrant a denial of this Application.

5. Recreational Values

There are no recreational activities or facilities at the Facility that would be adversely impacted by the proposed tower development. (Cellco 1, Tab 9).

6. Forests and Parks

There are no State Forest or State Park facilities located at or near the Facility. (Cellco 1, Tab 9).

7. Air and Water Quality

a. Air Quality. The equipment associated with the proposed Facility would generate no air emissions under normal operating conditions. (Cellco 1, Tab 1, p. 7). During power outage events and periodically for maintenance purposes, Cellco would utilize an on-site emergency backup generator to provide emergency power to the Facility. The use of the generator during these limited periods would result in minor levels of emissions. Pursuant to R.C.S.A. § 22a-174-3, Cellco will obtain an appropriate permit from the Connecticut Department of Environmental Protection (“DEP”) Bureau of Air Management prior to installation of the proposed generator. (Cellco 1, Tab 1, p. 7).

b. Water Quality. The proposed Facility would not utilize water, nor would it discharge substances into any surface water, groundwater, or public or private sewage systems. There are no lakes, ponds, rivers, streams, wetlands or other regulated water bodies located at or adjacent to the Facility. There are no wetlands or watercourses within 200 feet of the Facility location. The proposed Facility would not affect, directly or indirectly, wetlands or watercourses, and will not impact therefore local water quality. (Cellco 1, Tab 1, p. 7, Tab 11).

Cellco proposes to install a diesel-fueled back-up generator within its equipment building for use during power outages. The generator’s fuel is stored in a double-wall “belly” tank which is a part of the generator unit. The tank is equipped with a leak detection system which is monitored remotely. In addition, the floor of the generator

room itself can, if necessary, contain the entire capacity of all of the generator's fluids (fuel, oil, etc.). (Cellco 1, pp. 15-16, Tab 7).

8. Fish and Wildlife

As a part of its National Environmental Policy Act ("NEPA") Checklist, Cellco received comments on the proposed Facility from the U.S. Department of Interior, Fish and Wildlife Service ("USFWS") and the Environmental and Geographic Information Center of the DEP. The USFWS has confirmed that no federally-listed or proposed threatened or endangered species or critical habitat under USFWS jurisdiction occur in the project area. Likewise, according to the Connecticut DEP's Natural Diversity Data Base, the Facility will not impact any known occurrences of listed species or significant natural communities. (Cellco 1, p. 14, Tab 10).

C. The Application Should Be Approved Because The Benefits Of The Proposed Facility Outweigh Any Potential Impacts

Following a determination of the probable environmental impacts of the proposed Facility, Connecticut General Statutes § 16-50p requires that the Applicant demonstrate why these impacts "are not sufficient reason to deny the Application." Conn. Gen. Stat. § 16-50p(a)(3). The record establishes that the impacts associated with the proposal would be limited and outweighed by the benefits to the public from the proposed Facility and, therefore, requires that the Council approve the Application.

As discussed above, the only potential adverse impact from a flagpole or other streamline monopole tower involves "scenic values." As the record overwhelmingly demonstrates, both of the proposed towers would have minimal impacts on scenic values in the area. (Cellco 1, p. 12, Tab 9). These limited aesthetic impacts may be, and in this case are, outweighed by the public benefit derived from the establishment of this Facility. Unlike many other types of development,

telecommunications facilities do not cause indirect environmental impacts, such as increased traffic and related pollution.

The limited aesthetic and environmental impacts of the Facility can be further mitigated by the sharing of the tower. The proposed Facility would be capable of supporting one additional carrier. (Cellco 1, p. 11). If a monopole with flush-mounted antennas is approved, additional tower sharing would be possible. (Tr. p. 55).

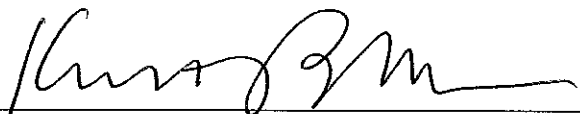
In sum, the potential environmental impacts from the proposed Facility would be minimal when considered against the benefits to the public. These impacts are insufficient to deny the Application. The site, therefore, satisfies the criteria for a Certificate pursuant to Connecticut General Statutes § 16-50p, and the Applicant's request for a Certificate should be granted.

IV. CONCLUSION

Based on the evidence contained in the record and the arguments presented above, Cellco has satisfied the criteria in Connecticut General Statutes Section 16-50p. Accordingly, the issuance of a Certificate to the Applicant is appropriate and fully consistent with the Act.

Respectfully submitted,
CELLCO PARTNERSHIP D/B/A VERIZON
WIRELESS

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CERTIFICATE OF SERVICE

I hereby certify that on the 20th day of August, 2007, a copy of the foregoing was mailed,
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